DOCUMENT RESUME

ED 411 660 EC 305 853


AUTHOR Mellard, Daryl; Hall, Jean; Leibowitz, Ruth

TITLE Research Report on the Nature, Extent, and Outcomes of Accommodations in Adult Education Programs.

INSTITUTION Kansas Univ., Lawrence.; Kansas State Univ., Manhattan.
SPONS AGENCY National Inst. on Disability and Rehabilitation Research (ED/OSERS), Washington, DC.
PUB DATE 1997-08-00
NOTE 60p.
PUB TYPE Reports - Research (143)
EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS *Access to Education; Accessibility (for Disabled); *Adult Education; Classroom Environment; Definitions; *Disabilities; Equal Education; *Federal Legislation; *Inclusive Schools; Interviews; Laws; *Legal Responsibility; National Surveys; Structural Elements (Construction); Teacher Attitudes
IDENTIFIERS Academic Accommodations (Disabilities); Americans with Disabilities Act 1990; Individuals with Disabilities Education Act; *Reasonable Accommodation (Disabilities); Rehabilitation Act 1973 (Section 504)



ABSTRACT

This report discusses the current nature, extent, and outcomes of accommodations for adults with disabilities in adult education programs. Information was gathered through a national survey of adult education programs, statewide interviews of adult education instructors, statewide interviews of adult learners with disabilities, literature reviews, panel meetings with adult education learners and adult educators, and meetings with experts in adult education, occupational therapy, disability rights, and other related fields. The report includes information on: (1) the rationale for accommodations; (2) the definition of accommodations; (3) entitlement to accommodations; (4) the nature of accommodations (includes a taxonomy of accommodations); (5) application of accommodations (discusses program accessibility/facility accommodations, auxiliary aids and services/communication accommodations, and modifications to policies, practices, and procedures); and (6) the outcomes of accommodations. Research results find that the majority of adult educators expressed a willingness to provide accommodations to adult learners with disabilities. Findings also indicated that many programs are already providing accommodations such as extra time, large print, and more structured assignments. However, respondents also cited a lack of resources, including informational resources on accommodations and legal issues, and time limits of staff, as barriers to providing effective accommodations to their students. (Contains 43 references.) (CR)



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ED 411 660

# Research Report on the Nature, Extent, and Outcomes of Accommodations in Adult Education Programs

by Daryl Mellard and Jean Hall
with Ruth Leibowitz

University of Kansas
Institute for Adult Studies

August, 1997
Lawrence, KS

EC 305853

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Acknowledgment

This project, "Research and Demonstration of a Model for Successfully Accommodating Adults with Disabilities in Adult Education Programs," is a collaborative effort among faculty and staff at the University of Kansas and Kansas State University. The project was 100% funded by the National Institute on Disability and Rehabilitation Research for three years at $175,000 each year. Jean Hall is the Project Coordinator for all of the activities. Research associates include Janis Bulgren, Mary Pat Gilbert, Betty Horton, and Kathy Parker. Warren White and Daryl Mellard are co-principal investigators. Inquiries should be directed to: Project Coordinator, Institute for Adult Studies, 3061 Dole Center, University of Kansas, Lawrence, KS 66045, (785) 864-4780.

# INTRODUCTION

## METHODOLOGY

This report comprises information on accommodations gathered through many project activities, including:

- a national survey of adult education programs;
- statewide interviews of adult education instructors;
- statewide interviews of adult learners with disabilities currently enrolled in adult education programs;
- extensive literature reviews utilizing databases such as ERIC, the Adult Learning and Literacy Clearinghouse, and state literacy resource centers to access conference presentations, documents, articles, and books pertaining to the nature, extent and outcomes of program accommodations in adult education programs, university programs, special education, and the workplace;
- panel meetings with adult education learners and adult educators; and
- meetings with experts in adult education, occupational therapy, disability rights, and other related fields.

Data from these activities were tabulated and analyzed in an effort to document findings pertinent to our project, i.e., information useful in understanding the current nature, extent and outcomes of accommodations for adults with disabilities in adult education programs.

## AUDIENCE AND PURPOSE

The purpose of this report is to provide a summary of the current state-of-the-art regarding the use of accommodations in adult education. The report is intended for use by adult education practitioners, staff developers, and pre-service teacher trainers. For these professionals, the report will provide a background on the legal and ethical basis for accommodations as well as a working definition of accommodation and related terms. In addition, sections address the application of accommodations and their possible outcomes. Finally, issues for future work are addressed.

Information from this report will be used in the development of an Accommodations Model and other related products to address the needs identified in facilitating the accommodations process. These products will include materials for use by adult educators to assist them in understanding legal rights and responsibilities, and in selecting, providing and monitoring effective accommodations for their students.

## RATIONALE FOR ACCOMMODATIONS

> . . .Over the last 10 to 15 years, we disabled people have come to identify ourselves as part of a minority group. We have redefined our position in society ("our problems," so to speak) in terms of discrimination and prejudice and the resulting lack of opportunity that arises from society's negative view of disability.
>
> We have adopted a view that disability is not inherently negative, but rather has severe and limiting consequences because of how it has been defined by society. . . . We have determined that we must change the way society defines "disability," thereby converting the way it is viewed from that of a personal tragedy to a difference in the human condition."
>
> -- (Johns, 1989, p. 10)

While we have chosen to include in our report a section discussing the rationale for accommodations, we hope that for most readers it will prove superfluous. In a sense, asking "Why provide accommodations for adult students with disabilities?" is akin to asking, "Why allow students with disabilities to learn or to be productive citizens? Why allow a significant portion of the populace to enjoy the benefits of education?"

With the passage of laws such as the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, we sometimes forget that once multiple laws were in the books that allowed and even promoted discrimination against people with disabilities. "In the United States during the late nineteenth and early twentieth centuries, . . . people with mental retardation, epilepsy or cerebral palsy were often permanently institutionalized as dangers to society. . . others with physical disabilities were at times segregated by such ordinances as Chicago's 'ugly law,' which prohibited 'diseased, maimed, mutilated, or. . . deformed' persons from appearing in public" (Longmore, 1995, p. 83). Closer to the present time, "During its first year, the Reagan administration tried to nullify Public Law No. 94-142, the law guaranteeing children with disabilities the right to a free and appropriate education (Longmore, 1995, p. 83)."

### CHANGING PERSPECTIVES ON DISABILITIES

Decisions for and about people with disabilities have historically been and continue to be made mostly by those who do not themselves have disabilities. This state of affairs is changing, however. A growing number of people with disabilities have come to view themselves as members of a minority group and to both expect and demand long-overdue civil rights. On a more theoretical level, many have redefined the meaning of disability.

A new distinction is emerging. Increasingly, individuals with disabilities regard themselves quite differently from how those without disabilities regard them. Longmore(1995, p. 84), citing research by Wright, says: "'Outsiders' (non-disabled people), latch onto a single trait (for example, paraplegia or arthritic pain), while 'insiders,' people with disabilities, take into account the full range of their experience. Their evaluation of their own lives is not restricted by a stigmatizing label."

A growing number of people with disabilities consider societal attitudes and environmental obstacles to be greater problems than the disability itself. Rather than accept a medical model that views disability as a biological defect, "the emergent minority group consciousness defines *disability* primarily as a socially constructed condition. . . . The differences . . . are seen not as the exclusive and inevitable consequence of bodily impairments, but as the product of the interaction between individuals with such impairments and the arrangements of the social and architectural environments." (Longmore, 1995, p 82).

This perspective makes a great deal of sense. A person who requires a wheelchair may only be limited in his or her access to education, musical concerts, and other worthwhile pursuits by the architectural shortcomings (e.g., lack of a ramp) of a particular building. A deaf individual may enjoy the same ability to do research or conduct business over the phone as anyone else, provided a TDD or relay service is made available.

Today the "ugly law" has been turned upside down. A public place may not legally discriminate against people with disabilities, and can be sued for not providing equal access. Yet societal change often lags behind legal change, and the battle by and for people with disabilities is not yet won.

## Quality of Life Issues

A number of studies have followed public school students with disabilities to see how they fare as adults. "Special Education students do not appear to be partaking of the fruits of our society" concluded Edgar (1987) after conducting a follow-up of special education students several years after graduation from high school. He found that of the approximately 60% who were employed, only 18% earned more than minimum wage. When individuals with learning and other mental disabilities were culled from the sample, the percent making above minimum wage dropped to 5. Thus, 95% of the students with disabilities *not primarily cognitive in origin* were making minimum wage or below several years after high school graduation.

Other surveys have found similar and/or even more dismal statistics (e.g., Blackorby & Wagner, 1996; Hasazi, Gordon & Roe, 1985; Hoffmann et al., 1987; Mithaug, Horiuchi, & Fanning, 1985). What is wrong with

this picture? How can we as educators see to it that people with disabilities receive a fairer portion of the American pie?

The highest pinnacles of the American Dream are not equally *attainable* for all. We cannot all be rocket scientists, Olympic-level athletes, symphony conductors, or authors of great novels. However, in the realm of the ethics and civil rights, a different question is of primary importance: Is the American Dream equally *accessible* to all who have the potential for attaining it? Does a person who has the potential to be educated have access to education regardless of parental income? Regardless of race? Regardless of disability?

### ACCOMMODATIONS AS A CIVIL RIGHT

Equity, as well as a strong American tradition of justice and fairness, is at the heart of the civil rights statutes discussed in Section 3. It is also at the heart of accommodations provision. Rawls (1971, p. 343), in discussing the justness of institutions, presages the provisions of these statutes in his statement that if an institution cannot be perfectly just, it must be "at least as just as it is reasonable to expect under the circumstances." Rodriguez (1994, p.11) specifically addresses the issue of equity and justice in education and explains that "Equity. . . is based on the premise that all students--regardless of race, color, national origin, sex, native language, age, social or economic status, family structure and lifestyle, religious preference or disability--have the right to an education of equal quality." He further specifies that equity in education is the structuring of educational priorities, commitments, and processes to reflect the reality of our diversity as a fact of life.

Civil rights for persons with disabilities is a slightly different matter from civil rights in the traditional sense for other historically marginalized groups. For example, providing equal opportunity for a woman or person of color generally means treating the person *the same way one would treat a person of a non-marginalized /majority group* in the same circumstance. In contrast, treating a person with a disability the same way one would treat a person of a non-marginalized /majority group does *not* insure that person's rights. Clearly, treating a blind person as if he or she is sighted or a quadriplegic as if he or she can walk will lead not to equal access, but to decreased or nonexistent access. For this reason, accommodations are an integral component of all the major civil rights and educational laws safeguarding the rights of people with disabilities. In many settings, including educational ones, accommodations are required by law.

What is an accommodation? From our perspective, an educational accommodation is any change that creates an equitable opportunity for task completion or environmental access within the learning environment. An accommodation may be a piece of equipment, or a change in environment or procedure that helps a student to learn, to perform a task, or to access the environment. For example, for a blind

student or one for whom writing legibly is not possible, a tape recorder might be a useful accommodation (equipment). For a student who hears with difficulty, providing seating at the front of the room might be an appropriate accommodation (change in environment). The student who reads much slower than average due to a documented learning disability might be granted additional time to complete an exam (change in procedure). Accommodations can also involve changes in attitudes. Some teachers may initially resist the idea of allowing a student to use an electronic dictionary or other assistive device. Attitudinal accommodations are therefore often essential in the success of other types of accommodation. A more comprehensive discussion and listing of accommodations is provided in later sections.

### ACCOMMODATIONS IN ADULT EDUCATION

Adult education centers, like other learning environments, are legally mandated to provide accommodations to any student with a documented disability who is *otherwise qualified* (has the potential to successfully learn what the center teaches). The center may not pass on the cost of the accommodation to the student. While a center may not be forced to provide an accommodation that poses a heavy financial burden, the majority of accommodations are inexpensive or cost no more than to provide a little bit of extra time and communication.

How might accommodations impact adult learning? Students with disabilities *are* present in adult education centers. Adult education centers surveyed by Mellard (1997) had an average of 10 students with *verified* disabilities enrolled "in the last 12 months." From center to center, these numbers ranged from zero to more than 60. Note our italicization of the word *verified*, since the numbers stated above include only those students who have provided *official documentation* of their disabilities. For every student who has a verified disability, the conventional wisdom is that probably many others have disabilities that have never been documented. Adult educators responding to a national survey (Hall, 1997; White, 1996) estimated that almost one-third of their students had disabilities, while only 17% had *verified* disabilities.

Are students with disabilities taking advantage of their legal rights and of the accommodations available to them? A study focusing on students with learning disabilities asserts that they are not. For example, in 1995 *less than three tenths of one percent* of all GED candidates applied for accommodations for the GED administration. However, five to ten percent of the general population is believed to have a specific learning disability (Lowe, 1996). Thus, a sizable portion of students with learning disabilities are not accessing the accommodations that are available for the GED, such as extra time, use of a scribe, and a private room. This, in turn, tells us that students with learning disabilities are not doing as well on their GEDs as they might.

Mellard (1997) has conducted a series of interviews with adult educators and students with disabilities in Kansas. Preliminary results (Hall, 1997) show that a majority of adult students with disabilities are either completely or largely unaware of their rights. Slightly more than half of the adult education centers in the sample don't ask about a student's disability on their enrollment forms. Of 23 adult education centers who responded to the question, only 3 (approximately 13%) regularly inform students of their rights under the Americans with Disabilities Act, the federal statute most relevant to adult education.

Given the statistics regarding employment outcome and requests for accommodations on the GED, and the results of our student interviews, many adult students are either unaware that they have disabilities, or unaware of their rights to accommodations. By law, the adult education student is generally responsible for informing the learning center of his or her disability and of requesting appropriate accommodations, while the center is responsible for providing notice that it does not discriminate on the basis of disability. This constitutes an area in which we believe that a technical reading of the statutes leads to the danger of parting company with educational ethics and goals. If an adult learning center truly intends to educate all of its students in the best way possible, asking students about potential disabilities and actively working with them to find appropriate accommodations is a good strategy for both student and educator.

Students with disabilities often express frustration with the learning process. Educators who work with students with disabilities also often express frustration regarding such things as low retention rates, and a lack of training and resources. We believe that open communication, team work, and a knowledge of existing resources are the best remedies for problems that generally have solutions.

In summary, one important way to regard disability is as a social phenomenon for distinguishing individuals. Historically, these distinctions have been used as justification for differential access, treatment, and outcomes. Legislation and accommodations are two tools for remedying this historical treatment.

While we are glad for the legal support of accommodations given by a statute like the ADA, our stance is that an educator's responsibilities extend above and beyond legal mandates, and include proactive inquiries regarding student's disabilities and effective accommodations. We hope that the information in the sections that follow will provide a legal and practical framework to give educators a good sense of the following:

- What is encompassed by the term "accommodation;"
- Legal issues and mandates involving disability and accommodations in adult education settings;
- Accommodations that are possible in an educational setting;

- How these accommodations can be tailored to particular individuals and situations;
- How and where to find additional information and/or training concerning accommodating students with disabilities.

# DEFINING ACCOMMODATIONS

A reader may find many different definitions for accommodations while reviewing recent literature. "Accommodation" can be defined in legal terms, employment terms, educational terms, and in life-skills-based terms, among others. In this section, we will review and contrast the differences between accommodation and similar terms such as adaptation and compensatory strategy, and give the reader a detailed view of the varying perspectives of definitions. We will also present a working definition of accommodation for our ongoing research activities.

## LEGAL DEFINITIONS

Legal definitions of accommodations are important in understanding legal rights and responsibilities of both individuals and educational programs. Section 504 of the Rehabilitation Act of 1973 (PL 93-112) includes the following about *academic accommodations*:

> Postsecondary education facilities shall make modifications to their academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability, against a qualified applicant or student of disability. This provision allows the use of auxiliary aids (tape recorders, readers, classroom, equipment, etc.) and course examinations.

Accommodations in an employment setting are termed "reasonable accommodations." Reasonable accommodations are addressed in both Section 504 and in Title I of the Americans with Disability Act (PL 101-336). *Reasonable accommodations*, by definition, include:

a) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
b) job restructuring; part time or modified work schedules, reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustments or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities. (28 CFR §1630.2)

A more concise version of the ADA definition states *reasonable accommodation* as a logical adjustment made to a job and/or the environment that enables an otherwise qualified person with a disability to perform the duties of the job.

State and local governments, and thus public educational programs, are covered under Title II of the ADA. *Academic* adjustments or

modifications may be covered by one of three parts of Title II: program accessibility; effective communication/auxiliary aids and services; or reasonable modifications to policies, practices, or procedures. These parts are explained more fully in the Nature of Accommodations section, later in this report.

## EDUCATIONAL DEFINITIONS

In their book, authors Mather and Roberts (1995, p.85) give a comprehensive definition for academic accommodations:

> "accommodations are not substitutes for a carefully designed remedial program, but rather are adjustments in curricular demands that allow a student to succeed. These changes in the school environment result in the provision of equal opportunity and equal access to all students. The changes may be procedural or attitudinal, may involve environmental access, or may include the use of assistive equipment or technology."

Various educational organizations have also developed definitions for accommodations, as listed below.

The HEATH Resource Center (1985) definition:

Reasonable accommodation by definition is removal of barriers to participation. Institutions of postsecondary education need to provide reasonable accommodations to individuals with disabilities, including modification, substitutions or waivers of courses in major fields of study or degree requirement on a case by case basis.

The University of Minnesota, Disability Services (1996) definition:

A reasonable accommodation is a modification or adjustment to a course, program, service, job, activity or facility that enables a qualified student with a disability to have an equal opportunity.

Payne and Associates (1993) definition:

Accommodations . . . are defined as those modifications, techniques and interventions which enhance the use and further development, where possible, of the intact power in order to compensate for the learning disability. Learning power is identified in this context as visual, auditory, and tactile or kinesthetic, coupled with the ability to sustain an appropriate span of attention. Appropriate accommodations and adaptive strategies should be based on the identification of strengths and weaknesses. The weaknesses are then counteracted by using the learning power or strengths. Each strategy is only a suggestion, a possibility that needs to be applied in the learning environment to see if learning is enhanced.

## LIFE-SKILLS-BASED DEFINITIONS

The RESNA (Rehabilitation Engineering and Assistive Technology Society of North America) Technical Assistance Project (1992) defines accommodations as reasonable modifications that we make, or others make for us, to compensate for skills or abilities that we lack. Further, "when accommodation is used in connection with disability issues, it refers to a way of modifying a task or assignment so that a person with a disability can participate in spite of whatever challenges the disability may pose."

The Ecology of Human Performance (EHP) model (Dunn, Brown & McGuignan, 1994) generally considers accommodations in a broader sense than other perspectives, in that it considers all aspects of an individual's life, rather than specific areas such as education or employment. The EHP model defines an accommodation as the process of making changes in the way tasks are currently performed or in the way the context is currently designed so that persons have a greater opportunity to be successful in necessary and desired life skills (see Nature of Accommodations section for a more complete explanation).

## SECONDARY TERMS USED IN CONJUNCTION WITH ACCOMMODATIONS

A major reason for confusion involving accommodation is lack of a clear-cut distinction between accommodation and other terms used interchangeably. This section provides a brief review of the definitions of terms commonly used in conjunction with accommodation. Generally, the term "accommodation" is very broad in scope and inclusive of other, more specific, terminology, as explained below.

Compensatory strategies are tactics students use to help themselves perform tasks. These strategies may be developed instinctively by the student using his or her ingenuity, or taught by a teacher familiar with the student's learning style and the task demands (Mather & Roberts, 1995). For a student who has difficulty with handwriting, a compensatory strategy might be to use a computer for word processing. The strategy itself is not an accommodation, but the modification in classroom procedure or policy to allow use of a computer is.

Adaptation involves the adjustment or redesign of a task, environment or equipment in ways specifically to assist a person with a disability. For example, adaptive equipment for computers is designed specifically so that people with varying disabilities can access computer technology (RESNA, 1992). Adaptations are not generally necessary for people without disabilities. Thus, an accommodation would be to provide the necessary adaptations for an individual with a disability to participate equally in classroom activities.

Auxiliary aids and services are, by definition (28 CFR §35.104), services and devices designed to provide effective communication, i.e., to make aurally and visually delivered information available to persons with hearing, speech and visual impairments. Examples of auxiliary aids and services include interpreters, note takers, assistive listening devices, closed caption decoders, TDD's, readers, audio recordings, and brailled or large print materials. Again, the provision by a program of auxiliary aids and services to participants with disabilities is a type of accommodation.

### WORKING DEFINITION OF ACCOMMODATION

As we have seen, the term accommodation encompasses many concepts. The following statements apply to accommodations in general and also to academic accommodations.

- An accommodation is a legally mandated change that creates an equitable opportunity for task completion or environmental access.
- Accommodations are selected individually, not for the disability. Information about the person, the task, and the context is essential for selecting the appropriate accommodation(s).
- An accommodation is an individually determined adjustment to a functional need. Such an accommodation is required across settings for the same types of tasks.
- An accommodation may include use or modification of equipment or changes in environments, procedures or attitudes.

Each of these components is integral to a complete understanding of accommodation and to providing appropriate accommodations in any setting.

# ENTITLEMENT TO ACCOMMODATIONS

If for once we could feel what it would be like to be disabled,
we would know what to do and say.
If we knew what it was like to be frustrated, with no way to communicate,
we could comfort.
If we knew what the world was like through their eyes,
we could think a different way.
But because we know what it is like to be excluded,
we can make a difference.

Emily Isett, age 11 (1996)

## THE MEANING OF DISABILITY

The definitions and connotations of the word "disability" differ depending on the speaker, the listener, and the context in which it is used. Experimental and experiential evidence supports the common-sense assumption that people seen as having disabilities and those who are not view disabilities and the language used to describe them quite differently. In the realm of physical disabilities, Oliver (1993, cited in Harris, 1995) discussed how definitions of "disability" by the able-bodied generally focus on the deficits of the individual while people with disabilities tend to focus on the context, "i.e. the failure of physical and social environments to take account of the needs of particular individuals and groups" (Harris, 1995).

In a study focusing on learning disabilities, Simons (1992) found that "people with *learning difficulties*" (italics added) was the preferred term for most of the self-advocates queried. Yet public services and legal institutions overwhelmingly use the term "learning disability" instead. The fact that "disability" rather than "difficulty" is the word of choice in this report is itself a sociopolitical event. This choice reflects the power of legal, educational, and service systems to define groups still regarded as outside the mainstream. It also reflects the fact that most writing and policy making regarding individuals with disabilities continues to be done by those who do not themselves have a disability.

Although the World Health Organization (WHO) conceptually links the words "impairment," "disability," and "handicap," each word receives a separate definition. For example, disability is defined as *a restriction or lack of ability to perform an activity in the manner or within the range considered normal for a human being.* This restriction is seen as *resulting from* an impairment, which is *any loss or abnormality of psychological, physiological or anatomical structure or function."* Thus, disability is seen as the outward, behavioral manifestation of a problem whose roots are structural and/or physiological. A "functional handicap" is the social consequence of the disability (Harris, 1995). Consider

multiple sclerosis as an example: The ongoing destruction of the myelin sheath that protects nerve axons and facilitates conduction would constitute the impairment. A disability resulting from this impairment might be weakness in and decreased ability to control the muscles of the lower body. This in turn might lead to decreased mobility, a functional handicap.

Questions of particular relevance to the issue of accommodations are natural outgrowths of WHO's definitions: Does a disability necessarily imply or define a functional handicap? Does the availability of certain straightforward accommodations (such as a wheelchair coupled with accessible schools and workplaces) make it possible for a person with even a severe impairment or disability to avoid or greatly decrease a functional handicap? Might a disability create a functional handicap for an individual in one environment but not another? Such questions are relevant when one ponders the uses and justifications of accommodations, as well as their limits.

Advocates for the people with disabilities, educators, philosophers and social theorists can and will no doubt continue to debate and discuss the definition and social meaning(s) of the word "disability." In these arenas a certain amount of "gray area" is expected and can be seen as helpful in fostering further communication, debate, and clarity. However, the realm of legislation does not have the luxury of defining and redefining disability anew each time a court battle ensues, and definitions in this area are more black and white in nature.

## LEGAL BASIS FOR ACCOMMODATIONS

Many legislative documents exist that define disability and mandate accommodations under varied circumstances. The three federal statutes most relevant to adult education are the Individuals with Disabilities Education Act of 1990 (IDEA, PL 101-476), Section 504 of the 1973 Rehabilitation Act (PL 93-112), and the Americans with Disabilities Act of 1990 (ADA, PL 101-336). Table 1, below, summarizes the definitions of disability put forth by each.

The Individuals with Disabilities Education Act (PL 101-476). The IDEA is a federal education statute that protects students aged 3 through 21 by guaranteeing the availability of free, appropriate public education in the least restrictive environment. Compliance with the IDEA is enforced by the U.S. Department of Education, Office of Special Education Programs (OSEP).

IDEA mandates that all children residing in a state who are disabled, and who are in need of special education and related services, are identified, located, and evaluated by the state. This part of the law is sometimes referred to as the "child find" mandate. The "child find" mandate is important in that states are required to

provide evaluation services for students with disabilities through age twenty-one.

**Table 1 - Definitions of Disability**

**The Individuals with Disabilities Education Act (IDEA)**

(1) The term "children with disabilities" means children --
(A)(i)with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
(ii) who, by reason thereof, need special education and related services.

**Rehabilitation Act of 1973**

(A) Except as otherwise provided in subparagraph (B), the term "individual with a disability" means any individual who has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment and (ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to subchapter I, III, VI, or VIII of this chapter.
(B) Subject to subparagraphs (C), (D), (E), and (F), the term "individual with a disability" means, for purposes of sections 701, 713, and 714 of this title, and subchapters II, IV, V, and VII of this chapter, any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.
20 U.S.C.. §706(8)

**The Americans with Disabilities Act (ADA)**

The term "disability" means, with respect to the individual --
(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
(B) a record of such an impairment; or
(C) being regarded as having such an impairment.
42 U.S.C. 12102(2)

From: Federal Statutory Definitions of Disability Prepared for the National Institute on Disability and Rehabilitation Research, Office of Special Education and Rehabilitative Services, United States Department of Education. (1995).

IDEA also mandates that transition services be provided. Transition services include activities that promote movement of a student from secondary school to post-school activities, including post-secondary education, vocational training, employment, continuing and adult education, and adult services. Increasingly, teenagers with disabilities

are finding their way into adult education programs. Because the IDEA is a funded mandate, it is prudent for adult education centers to investigate the possibility of tapping into IDEA-supported services for their younger learners. On the other hand, many adult education students are older than 21 years of age and not in the public school system, making the IDEA of limited relevance. Thus, aside from this brief introduction, the IDEA will not be discussed further here.

Section 504 of the Rehabilitation Act (PL 93-112). Section 504 is a civil rights act that mandates equal access and opportunity in very broad terms. The Act covers the realm of education indirectly but clearly, in that it defines a disability as any impairment that substantially limits a major life activity. Learning is considered a major life activity. Section 504 may be applied to educational institutions that receive *any* form of federal financial assistance. All students enrolled in such an institution are covered by the statute, regardless of whether they are degree-seeking, and regardless of whether they are US citizens or international students.

While Section 504 has no jurisdiction over funding, it requires schools to provide accommodations to students with disabilities. Individuals with disabilities must have access to "equal opportunity to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs [104.4(b)(2)]".

Section 504 differs slightly but importantly from other anti-discrimination laws. In the case of a "group membership" such as "race" where group membership is not related to the functional ability to perform a specific task, equal rights simply requires impartiality and equal treatment (e.g. in admission procedures). In the case of a disability, however:

> a handicapping condition may pose functional limitations in which *identical treatment or neutrality may actually be a source of discrimination* (italics added). In accordance with Section 504, then, nondiscrimination against individuals with handicaps is not a question of disregarding the class-wide presence of a characteristic, but a mandated awareness of the wide range of individual abilities and handicapping conditions manifested in varying degrees of severity. (Scott, 1990).

In other words, when it comes to disabilities allowing and/or providing equal opportunity requires not identical treatment of all individuals, but active provision of personalized accommodations to otherwise qualified individuals with disabilities.

Unlike the IDEA, Section 504's protection extends to individuals of all ages. Subpart D of the statute's regulations pertains particularly to adult education programs, and provides recommendations regarding

modification of academic settings, methods of evaluation, supplementary aids and services, and related issues.

For example, Subpart D assigns the school responsibility for altering methods of evaluation to best ensure that the results reflect the student's achievement rather than his or her disability. Academic institutions may not impose rules with the effect of limiting the participation of students with disabilities. They must modify requirements that are discriminatory for a student with a disability. However, institutions are not required to compromise on aspects of their program deemed to be essential (see discussion below). For a more detailed discussion of 504, Scott (1994) is an excellent source.

According to the Office of Civil Rights (OCR), in order for the student to receive mandated accommodations the disability must be *currently* affecting his or her learning. Thus, even though a "record of impairment" is included in the legal definition of disability, *its presence alone does not suffice to require a learning environment to provide accommodations.*

Sometimes the rights of a student with a disability to an accommodation are not covered by the IDEA but *are* covered under Section 504. In this case, the school is legally required to provide accommodations under Section 504. Compliance with Section 504 is enforced by the U.S. Department of Education, Office of Civil Rights (OCR). This office has also rendered and continues to render rulings that further clarify ambiguous aspects of the legislation. Several of these rulings are elucidated in the sections that follow.

A sample Section 504 Plan to help teachers and administrators determine when accommodations are required under this legislation is included at the end of this section (Appendix 1).

<u>The Americans With Disabilities Act (ADA) of 1990 (PL 101-336).</u> Of the three statutes discussed here, the ADA is the predominant one. Unlike the IDEA, the ADA covers people of all ages and its scope is not limited to academic environments. In addition, it extends protection afforded by Section 504 to institutions that do not receive federal aid. One lawyer stated the ADA's role as follows:

> Despite its limitations, the ADA constitutes a cultural as well as legal mandate to include people with disabilities in the social and economic mainstream. While the act is no more likely to completely eliminate the myths, fears and discrimination faced by people with disabilities than earlier civil rights laws eliminated discrimination based on race, the new legislation will nonetheless contribute to the enormous educational effort needed to combat widespread misinformation and stereotypes about disabilities
>
> -- Haimowitz (1991), as cited in Pfeiffer (1994)

The ADA and 504 have many similarities, b : also important differences. Table 2 illustrates some of these similarities and differences between the two statutes. Because the ADA is the statute most likely to be invoked and consulted regarding the respective rights of students, instructors, and adult education centers, we will delve into the definition of disabilities in more detail here.

**Table 2 - Comparisons Between Section 504 and the ADA**

| | Section 504 | The ADA |
|---|---|---|
| **Scope of coverage** | Applies to all programs and activities receiving Federal financial assistance. | Applies to public or private employment, transportation, accommodations and tele-communications regardless of whether federal funding is received. |
| **Disability defined** | See Table I. | See Table I. |
| **Program accessibility** | Requires services, programs and activities in existing facilities to be readily accessible when viewed in their entirety. | Same as Section 504. |
| **Communication requirements** | No requirement specified. Obligation exists to provide effective communication. | Auxiliary aids and services required for persons with visual, hearing and speech disabilities. |
| **Reasonable modifications** | No requirement specified; general obligation exists to make reasonable modification of recipients' policies, practices and procedures. | Requires reasonable modification of policies, practices, and procedures of all public entities. |
| **Funding** | No authorization for funding attached to this Civil Rights statute. | Same as Section 504. |
| **Enforcement agency** | The Office for Civil Rights (OCR) in the U.S. Department of Education. | Primarily the U.S. Department of Justice, in conjunction with the Equal Employment Opportunity Commission and Federal Communications Commission. May overlap with OCR. |
| **Remedies** | A private individual may sue a recipient of federal financial assistance to ensure compliance with Section 504. | Same as Section 504 with monetary damages up to $50,000 for the first violation. Attorney fees and litigation expenses are also recoverable. |

The ADA's definition of "disability" is similar to WHO's definition of a functional handicap. The ADA defines "disability" as *an impairment* that *substantially limits* one or more *major life activities* (italics added). A brief discussion of each of the italicized phrases follows:

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1) Impairment. Under the ADA an "impairment" is a physiological or mental disorder (see Table 3). As further clarification of the meaning of "impairment":

> . . . simple physiological characteristics, therefore, such as eye or hair color, left-handedness, or height or weight within a normal range, are not impairments. A physical condition that is not the result of a physiological disorder, such as pregnancy . . . would not be an impairment. Similarly, personality traits such as poor judgment, quick temper or irresponsible behavior, are not themselves impairments. Environmental, cultural, or economic disadvantages, such as lack of education or a prison record also are not impairments. For example: A person who cannot read due to dyslexia is an individual with a disability because dyslexia, which is a learning disability, is an impairment. But a person who cannot read because she . . . dropped out of school is not an individual with a disability (Americans with Disabilities Act Handbook, 1992).

In addition, a state of being such as "depression" may or may not be considered an impairment depending upon whether or not it has received a documented medical diagnosis. A person with a contagious disease, such as AIDS or tuberculosis may also be considered to have an impairment. However, if the disease poses a public health threat (for example the person has an active case of tuberculosis and is coughing) the ADA would not mandate admission to or retention in a program of study.

An individual whose life activities are substantially limited due to *current* abuse of drugs is not protected under the ADA. However, the same individual, after successful rehabilitation, cannot be refused admission into a course of study based on a record of past abuse. Such an action *would* be considered illegal under the ADA.

2) Substantially limits. The individual's abilities and circumstances, not the category of impairment, are of primary importance in determining whether or not an impairment constitutes a disability. For example, cerebral palsy in many cases limits an individual's motor movements and/or ability to speak in a manner easily understood by others. Yet it is also possible that an individual's cerebral palsy might produce mild symptoms that do not interfere greatly with major life activities. Such a person, while having an impairment, would not be considered to have a disability under the ADA's definition.

| Table 3 - Definitions of Impairment Under the ADA | |
|---|---|
| **Physical Impairment** | **Mental Impairment** |
| Definition: Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, and endocrine. | Definition: Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. |
| Examples*: Cerebral palsy, blindness, deafness, emphysema, polio, AIDS, arthritis. | Examples*: Mental retardation, dyslexia, post-traumatic stress disorder. |

*An important distinction to note is that under the ADA, an impairment is only considered a disability if it "substantially limits" a major life activity. Take the case of arthritis, for example. One student with mild arthritis might be able to move normally but be in some degree of pain, while another student with a more advanced condition might be unable to hold a pen. Under the ADA definition of disability, the first student would most likely *not* be considered to have a disability, while the second student would. The determination of disability is based on the individual, not the category of the impairment.

3) A major life activity. Learning is legally considered a major life activity. Thus, the ADA clearly covers the educational arena.

As stated, the ADA extends the scope of Section 504 to any program, whether or not the program receives federal funding. Title II of the ADA focuses on state and local governments, and mandates that:

> A public entity shall make reasonable modifications in policies, practices and procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can

demonstrate that making the modifications would fundamentally alter the nature of the program.

As is the case with Section 504, the ADA is enforced by the OCR, which is authorized to remove the federal funding of schools found to be out of compliance. Individuals can also file complaints and sue for damages.

According to Kincaid (1995, p. 11) the OCR uses a four-part test to determine if an institution of higher learning has provided the necessary accommodations to a student with a disability:

(1) whether the student provided adequate notice that academic adjustments were required;
(2) whether academic adjustments and auxiliary aids were necessary;
(3) whether appropriate academic adjustments and auxiliary aids were provided; and
(4) whether the academic adjustments and auxiliary aids were of adequate quality and effectiveness.

To summarize: Regardless of the number of employees affiliated with an adult education center, whether public or private, and whether or not it is supported by federal funds, the anti-discrimination guidelines put forth under the ADA are applicable to the adult learners it serves.

### ACCOMMODATIONS - WHEN ARE THEY "REASONABLE?"

Title II of the ADA mandates reasonable modifications of policies, practices and procedures for students with disabilities. As can be imagined, disagreements may ensue over the word "reasonable." The following questions have been of particular legal relevance in determining when an accommodation or modification is reasonable and when it is not.

Does the accommodation level the playing field or does it give the student an unfair advantage? The practical and ethical purpose of an accommodation is to equalize access and opportunity as much as possible between students with and without disabilities -- not to give the former advantages that the latter do not have. Let's say, for example, that a student requests extra time to complete exams. The school can require proof that the student's disability warrants this particular accommodation. Clearly, if this were not the case, the allocation of extra time would be unfair to other students who do not receive it.

When the school, the student, and/or the student's advocates are not able to agree about what is "reasonable," they have resorted to litigation. One such example occurred in 1991 (*Big Bend Community College*) when a student with a learning disability requested more time to complete chemistry tests. The school declined this request,

claiming that providing the student with extra time would necessitate doing so for all the students. In this case, OCR found the school in violation of Section 504.

The courts have ruled against as well as for students, *McGregor v. Louisiana State University Board of Supervisors (1993)* being a case in point. A student with a learning disability had requested that he be allowed to attend school part-time and take his exams at home. The school had already agreed to other accommodations, such as additional exam time and rest periods between exams. In this case, the courts upheld the school's refusal to concede with the student's additional demands, as these demands were viewed as "preferential" rather than equal treatment, and therefore were not deemed to be required under Section 504.

Is the student "otherwise qualified?" Section 504 states:

> "No *otherwise qualified* (italics added) individual with a disability in the United States . . . shall, solely by reason of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . (29 U.S.C. § 794)"

"Otherwise qualified" is an important concept, because legal sanctions have never been meant to insure that all individuals with disabilities achieve success in gaining admittance to an academic program or succeeding in any particular area. Brinckerhoff et al. (1992, p. 419) write: "Access should be addressed from this perspective: Does this student appear to have the potential to succeed in this setting with reasonable academic adjustments and auxiliary aids?"

In *Southeastern Community College v. Davis* (1979), the Supreme Court sided with the college, which had refused to modify clinical training in its nursing program for a student with a hearing impairment. The court agreed with the school's argument that the student was not otherwise qualified, since in a medical environment where emergencies might present themselves, the ability to understand situations and instructions quickly and without extensive individual supervision was a necessary qualification. This case was particularly interesting, because in addition to the concept of otherwise qualified, it raised the issue of public safety.

"Otherwise qualified" will have varying implications and applications, depending on both the student's disability and its extent. Both Phillips (1994) and Scott (1990) make the point that it is particularly difficult to evaluate this concept with regard to learning disabilities. Phillips, whose paper primarily focuses on testing accommodations, separates physical from mental disabilities.

> Because the *physical* disability was obvious to anyone who interacted with the person requesting the accommodation, there was no need for verification of the disability; the authenticity of the disability was apparent even to the untrained. In addition, there was little question about the appropriateness of the requested accommodations because *they primarily involved the removal of physical barriers and did not significantly affect the mental skills being tested.* (italics added, page 94).

Phillips goes on to give examples of testing accommodations that may aid the student who is clearly otherwise qualified, such as a Braille version of a test as well as additional time to read it, and a desk of appropriate height for a student who uses a wheelchair. She points out that with a physical disability, it is generally obvious when the disability is unrelated to the student's inherent ability to succeed in a course or career, and when it may justifiably bar a student from a particular area of study or vocational pursuit. For example, no one would argue that it would be inappropriate to train a blind person to be a bus driver. She emphasizes, however, that with "mental" disabilities, the disability is often "intertwined with the skills the test user wishes to measure." A case in point is testing a learner's reading comprehension of textual material, when this may be the exact area of learning disability.

Scott (1990) also makes the point that determining the meaning of "otherwise qualified" in an educational environment is particularly difficult in the arena of learning disabilities, which are often *manifested* in academic difficulties. She raises a question that goes to the very heart of the matter: "What allowances can equitably be made for the learning process while maintaining academic standards?"

> The faculty overseeing a program or the instructor of an individual course must determine what alternate methods of demonstrating achievement are acceptable. In higher education, most academic material is presented in language-related modes of input and output . . . . Course adaptations that reach the same intellectual and skill goals should be considered. For example, is it essential that knowledge of historical facts . . . be demonstrated through written, timed essay exams? Would it be permissible to assess the same skill and knowledge through taped oral responses? (p 401).

As the reader may imagine, the answer to the question posed above may differ according to the instructor, student, and institution involved, as well as the context of the course. If a student with a learning disability takes a history course to satisfy a general program requirement or merely out of enjoyment for the subject matter, the

student who can understand historical concepts but has poor writing skills would no doubt be considered otherwise qualified. However, the same student who wishes to take a history course as part of a journalism program, where writing about historical events is a major focus of the course, might *not* be considered otherwise qualified under the circumstances.

As will no doubt be clear by now, no magic recipe exists for determining when a student is "otherwise qualified," because determination of this concept must take into account not only the particular student, but the context.

Scott (1990) provides a list of guidelines to aid faculty members in deciding whether or not a particular student is "otherwise qualified." Of her original list, which was geared towards colleges, we have selected those guidelines we think apply particularly to adult education for Appendix 2.

Would providing the accommodation require fundamental changes in a program or curriculum? Regardless of whether or not a student provides verification of a disability, an educational institution is not required to accommodate a student in a manner that would require fundamentally changing the program or curriculum. For example, when the University of North Carolina at Chapel Hill refused to allow a reader to edit an exam, the OCR was in agreement with the university. The University claimed that because the ability to write clear and understandable prose was an essential part of the program, editing the exam would fundamentally alter the course. In *Southeastern Community College v. Davis* (discussed above) the court stated that "Section 504 imposes no requirement upon an educational institution to lower or to effect substantial modifications of standards to accommodate a handicapped person."

Clearly the issue of program modification is closely related to the concept of "otherwise qualified". Here the emphasis is on the program, and in "otherwise qualified" the focus is more on the student, but in reality *it is always the match between a particular student and a particular situation* that determines when an accommodation is appropriate.

Does the accommodation place an unfair financial or other burden on the institution? Section 504 regulations issued by the OCR require that the recipient of federal funds make appropriate accommodations available "unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program. (§ 104.12)."

In determining whether an undue hardship is imposed by an accommodation, the size and financial status of an institution of learning is taken into account. For example, a large university may

be expected to provide access to a reading machine that costs more than $5,000, while a small community learning center might well argue its inability to provide such an accommodation.

A learning institution is not obligated to provide the most expensive accommodation requested. The price of an accommodation can legitimately be taken into account when choosing between equivalent types of access. Brinckerhoff et al., 1992 give the example of a student with a disability who requested verbatim class notes from the lecture. If an equivalent level of access is provided by allowing the student to tape lectures, choosing this accommodation over the requested one is permissible.

### Responsibilities and Rights

The adult learner and the adult education program share responsibility for accommodations, and responsibilities on both sides are taken quite seriously by the legal system. First, the program is required under both 504 and ADA to provide on-going notice that it does not discriminate on the basis of disability and, depending on the size of the institution, must provide the name and contact information of a coordinator to whom questions about 504 or the ADA can be addressed. The student is required to provide the school with information concerning the nature and extent of the disability, when known, and to request specific accommodations, when possible. This information generally must be documented by a qualified individual and provided to the appropriate school or learning center personnel. Learners may also be expected to give "reasonable notice" of when an accommodation is required, and when and if it has ceased to be effective (Kincaid, 1995).

Once the learner has provided notice and documentation of the disability and is determined to be otherwise qualified, responsibility again shifts to the institution, which must provide equal opportunity for academic success via modifications or accommodations. When ethics do not suffice to ensure an eligible student of reasonable accommodations, the threat or reality of a lawsuit often does.

*Dinsmore v. the Regents of the University of California at Berkeley* (1989) was a landmark case in which a faculty member refused to honor the request made by a student with a learning disability for additional time on an exam. In an out-of-court settlement, the institution was required to develop clear accommodation-related policies for students with disabilities, and eventually did so. The faculty member, found to be personally liable, was forced to pay monetary damages. The results of this case sent a strong message that litigation in this area could and would not only lead the horse to water but also force it to drink.

The institution may not charge the student for any accommodation (28 C.F.R. § 35.130[f], 36.301[c]). However, as mentioned above, the accommodation may not be considered "reasonable" if it involves placing an extreme financial burden on the school. The school may also require that students expend some of their own time and energy to obtain accommodations they have requested. For example in a 1993 decision regarding the San Jose State University (CA) the OCR ruled that students with disabilities can be called upon to perform duties such as arranging appointments with service providers, or seeking a complimentary copy of a special book.

One final right to be considered is the right of a program to establish reasonable codes of conduct to be followed by all students, regardless of disability (a sample version is provided in Appendix 3). Public entities can use eligibility criteria as long as they do not screen out or tend to screen out people with disabilities. Neutral rules, such as legitimate safety concerns, are permitted even when the effect is to screen out people with disabilities (28 CFR §35.130(b)(8)). Students with disabilities cannot expect to use their disability as an excuse for unruly or disruptive behaviors. Conversely, educators should make it clear to <u>all</u> of their students what types of conduct are not acceptable, and work with students directly or through referrals to modify unacceptable behaviors.

### THE LIMITS OF LEGAL PROTECTION

As is no doubt clear from the preceding information, gray areas continue to exist where words and phrases such as "reasonable," and "otherwise qualified" are concerned. An unrealistic expectation is that institutions of learning and students will always agree on these terms and that additional recourse to the courts will not be needed. Hopefully, public and academic awareness regarding disabilities as well as the growing body of legal precedent will pave the way for environments in which situations such as a teacher refusing to allow a simple accommodation for a student with a disability (as was the case in *Dinsmore v. and the Regents of the University of California at Berkeley*) become increasingly rare.

<u>Legal guidelines don't necessarily tell us how to proceed.</u> Laws can suggest a framework, but they cannot determine the step-by-step approaches that change from student to student, and from environment to environment. Scott (1994) expresses it well:

> Providing curb cuts for students in wheelchairs or readers for students with visual impairments are obvious means of allowing students to circumvent areas of disability . . . . Accommodating a student with a learning disability, however, entails the potentially more complex task of distinguishing between thinking and learning processes

> that are affected by a learning disability and must be accommodated, and thinking and learning processes that are essential to an academic course or program of study. *Subpart E of the implementing regulations for Section 504 provides examples of ways in which students with disabilities may be accommodated, but provides no guidance in how to consider these academic adjustments for individual students in specific contexts.* (italics added).

Individualizing accommodations helps ensure that the student is appropriately served and that the school doesn't waste resources to create changes that are not needed or not effective. Scott (1990) points to the importance of accommodations being applied to the individual rather than the disability. She states:

> . . . post secondary institutions may benefit from ensuring that their support services are based on evidence of individual need in addition to documentation of a learning disability. For example, waiving foreign language requirements should not be a uniform policy for all students classified as learning disabled, but perhaps should be limited to those students who meet pre-established criteria for displaying a disability in this area (p 402).

An accommodation can be mandated, but success cannot. Brinckerhoff, et al. (1992) make the point that guaranteeing equal opportunity is not the same as guaranteeing equal outcome. Legislation can mandate an accommodation, but it cannot mandate success in or out of school.

Educational ethics go beyond doing what is legally mandated. Adult students are legally responsible for informing the learning center of their disabilities. However, it is hoped that learning centers will not be overly technical in the way they approach such an issue. In a preliminary series of interviews with adult education students in Kansas (Mellard, 1997) the overwhelming majority have stated they are unaware of their legal rights. Required by law or not, we believe that an educator who sees or suspects that a student has a disability (perhaps unknown to him- or herself) and is not receiving an accommodation, has an ethical responsibility to reach out to that student with information and support. Legally, the center has the responsibility to notify the public through posters, brochures, etc. that they do not discriminate on the basis of disability.

## SUMMARY

Clearly, the legal guidelines regarding the provision of accommodations for students with disabilities are broad, and their interpretation is sometimes fraught with ambiguity. How then, does the adult educator make sense of them?

Of the points made in the preceding discussion, several are particularly important to remember. First, legally speaking, the student is responsible for notifying the learning center of his or her disability and for requesting appropriate accommodations. The center, conversely, is responsible for providing notice that it does not discriminate on the basis of disability, and for providing the name of a contact person. Some physical disabilities are obvious, and the learning center may opt not to require verification. Some other disabilities however, such as a specific learning disability, can be less obvious to the observer and the learning center staff its within its rights to require that a learner present appropriate documentation before accommodations are provided.

A program is not legally required to make adjustments that change its nature or lower its standards. However, if a student is otherwise qualified and providing an accommodation will not change the nature of the program or pose a threat to others' health or safety, the center must accommodate the student. The only exception is if the requested accommodation is a personal service such as a tutor or reader, and/or if it is prohibitively expensive. In this case, a less expensive compromise is permissible.

Determining whether a student is otherwise qualified, or whether an accommodation changes the nature and requirements of a course of study need not be a tremendous obstacle. Scott (1994) advises that institutions of learning determine course and program requirements *before* a problem presents itself. She wisely states: "By proactively defining what is essential to a course or program of study, in content and procedure, and accommodating nonessential elements, we preserve the principles of academic freedom without impinging on the basic civil rights of students with disabilities." When deciding what elements of a course are essential, suggested questions to ask include: "What is the purpose of the course? What methods of instruction and assessment are absolutely necessary? What are acceptable levels of performance on these measures? (Scott, 1990)."

Section 504 and the ADA protect student and educator alike, assigning each rights and responsibilities. The relationship between the learning center staff and the student need not be adversarial. While we have discussed legal guidelines in some detail, we hope that common sense and good communication will take precedence over legal concerns in the matter of providing accommodations for students with disabilities.

Often an accommodation, such as seating a student in the front of the class, allowing extra time on a test or tape-recording of lectures, or providing a text-book in Braille or on tape, is a relatively simple matter. By the time a student with a disability enters the adult education setting, he or she may have already used one or more accommodations to good benefit, and can document and demonstrate

their effectiveness to the instructor to the benefit of both student and teacher.

On the other hand, some adult education students will have had the opposite experience -- a school career marked by frustration and a lack of success with any accommodation. Some students may even have disabilities of which they are still unaware. Such students clearly pose more of a challenge.

Several guidelines that might be helpful to educators are provided below. Appendix 1 provides a sample 504 plan, designed to help document and track the status of a student with a disability. Appendix 2 provides guidelines for determining "otherwise qualified" and Appendix 3 provides a sample Code of Conduct.

Appendix 1 - **Sample Section 504 Plan**

**Student Accommodation Plan**

Name: _____ Date of Meeting: _____

Date of Birth: _____

Program(s): e.g., GED preparation, computer programming certification _____

_____

_____

Instructor(s)

_____

_____

_____

1. Describe the nature of the concern:

2. Describe the basis for the determination of disability (if any):

3. Describe how the disability affects a major life activity:

4. Describe the reasonable accommodations that are necessary:

5. Review/Reassessment Date: (Must be completed)

6. Participants (Name and Title)

cc: Student's Cumulative File

Adapted from: LDAK Newsletter (LD Association of Kansas)

Appendix 2 - **Guidelines for Establishing Whether a Student is Qualified for a Program of Study**

Adapted from Scott (1990)

In determining the requirements and standards for each class, teachers and administrators might ask themselves the following questions:

**Course.**

a. What academic skills must be demonstrated?
b. What percentage of subject area knowledge must be mastered?
c. What specific knowledge, principles, or concepts must be mastered?

**Instructional Methods.**

a. What methods of instruction are non-negotiable?
b. Why aren't they negotiable? (For example, auditory presentation of musical compositions may be deemed absolutely necessary in a music appreciation class because of the designated nature and purpose of the course).

**Assessment.**

a. What methods of assessing outcome variables are absolutely necessary?
b. Why are they necessary? (For example, a nursing student's proficiency in starting an IV must be assessed by physical performance because of skill development required by the major and/or licensing requirements.)

**Performance.**

What are acceptable levels of performance on these measures? (For example, 100% of program competencies must be demonstrated; 85% of exam questions must be answered or performed correctly.)

**Student Variables.**

a. What preexisting abilities or skills must all participating students possess?
b. Is there a minimal level of proficiency in these abilities?
c. Does the ability or skill necessarily need to be performed in a prescribed manner?
d. Does the student understand the essential purpose of the course, and any subsequent restrictions on accommodating methods of instruction or means of evaluation?
e. Can the student meet all essential requirements in spite of his or her disability when given reasonable accommodation?
f. Will accommodating individual needs pose a risk to personal or public safety?

# Learning Center Code of Conduct

For everyone to be able to learn well, the Learning Center asks you to please follow these rules:

1. Be honest; don't cheat.
2. Do not abuse physically or verbally, threaten, hit or mistreat any person.
3. Be courteous to and respectful to the staff and students, and do not disrupt the class.
4. Do not steal, vandalize, deface or damage property of the college, college employees, or fellow students.
5. Do not use, sell, possess, distribute or be under the influence of or in association with narcotics, drugs or alcohol.
6. Do not smoke or chew tobacco while in the building.
7. Follow the directions of college staff performing their duties.

**Failure to follow the Learning Center Code of Conduct will result in dismissal.**

STUDENT SIGNATURE _____ DATE _____

# NATURE OF ACCOMMODATIONS

## TAXONOMY OF ACCOMMODATIONS

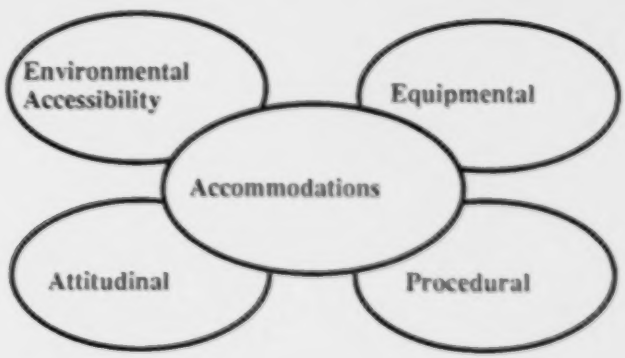
"Accommodations" is a very broad term, encompassing equipment, modifications, services, and even ways of thinking. Consequently, accommodations come in many forms. They can be attitudinal, functional, technological, instructional, environmental, etc. in nature, and considerable overlap occurs between types. For example, software to enlarge the text on a computer monitor is an accommodation that is functional, technological and possibly even instructional in nature. The abundant, sometimes ambiguous, terminology associated with accommodations can be intimidating to an educator who does not have ample experience in this area. Also, given the vast number of types of accommodations that are possible, having an organizational framework in which to consider them is helpful.

Not surprisingly, classification schemes for accommodations range from simple to quite complex in nature. Ysseldyke, Thurlow, & Silverstein (1994) presented a very simple scheme for categorizing typical assessment accommodations, which are equally applicable to the general education setting:

- changes in **presentation** of items
- different **response** options
- flexibility in **time** (scheduling or limits)
- flexibility in **setting**

Mather and Roberts (1995) presented a graphical representation of another classification scheme for accommodations (see Figure 1).

**Figure 1: Mather and Roberts classification scheme for accommodations.**



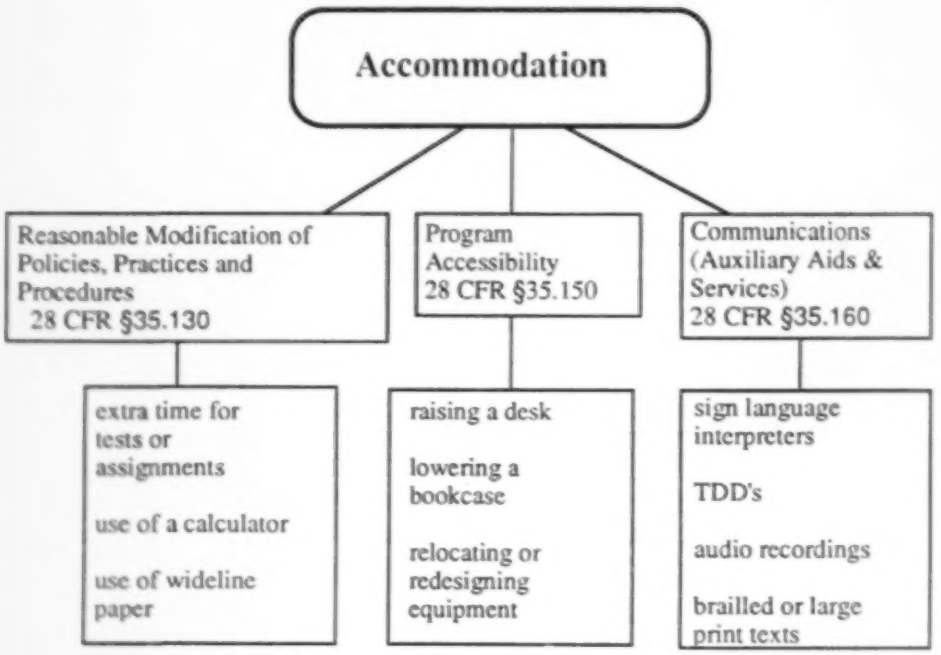

They defined procedural accommodations as those that impact the policies and practices teachers use in managing their classrooms, and attitudinal accommodations as involving alterations in one's belief system.

such as a teacher's willingness to accept the use of a calculator or computer by a student.

Another classification of accommodations can be accomplished using an information processing perspective. Information processing capacities can be divided into *sensory, perceptual, organizational, and responsive* constructs. Each of these constructs, in turn, can serve to define an individual's needs for accommodations, regardless of the disability category. Thus, sensory accommodations might include assistive listening devices or large print text, and organizational accommodations might include color-coded folders or cue cards.

From a legal standpoint, we are presented with yet another taxonomy of accommodations. Title II of the ADA, which applies to adult education programs and programs of other public entities, has several different subparts that deal with different categories of accommodation. The legal citation for these categories are shown, along with examples of each, in the following figure:

**Figure 2: Legal citations for accommodation categories.**


Accommodation
Reasonable Modification of Policies, Practices and Procedures 28 CFR §35.130
Program Accessibility 28 CFR §35.150
Communications (Auxiliary Aids & Services) 28 CFR §35.160
extra time for tests or assignments
use of a calculator
use of wideline paper
raising a desk
lowering a bookcase
relocating or redesigning equipment
sign language interpreters
TDD's
audio recordings
brailled or large print texts

Obviously, many different ways exist to categorize types of accommodations. All of the above organizational schemes are helpful in providing a framework to consider different accommodations. However, all of these schemes sort accommodations by the nature of the accommodation itself rather than by the type of functional need of an individual. In the following section, we will examine accommodations matched to functional need.

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## ACCOMMODATIONS MATCHED TO FUNCTIONAL NEEDS

The Ecology of Human Performance (EHP) framework was developed by occupational therapists working with people with a variety of disabilities (Dunn, Brown, McClain, & Westamn, 1994; Dunn, Gilbert, & Parker, 1996). Occupational therapists are concerned with empowering people to live satisfying lives, and thus they examine issues that the persons face each day. The EHP framework is a mechanism for considering the importance of context on the individual's performance of a given task. Context, in this scheme, consists of temporal (age, developmental level, life cycle, and health status) and environmental (physical, social and cultural) aspects. Using this framework, an educator can identify the needs of learners with disabilities and design strategies/accommodations to meet them. Five strategies of accommodation are possible: Establish/Restore, Modify/Adapt, Alter, Prevent, and Create.

The *Establish/Restore* strategy emphasizes identifying a learner's skills and any barriers to performance, and then designing interventions to improve or strengthen the identified skills. Examples of this strategy for accommodating a person who experiences difficulty in writing might include therapy to increase muscle strength in the hand or teaching alternate methods of holding a pencil.

In the *Modify/Adapt* strategy, context and/or task are changed in a way to support the learner's performance. This strategy can be illustrated by a learner with a hearing impairment. Modifying the context for this learner might mean placing the learner in the classroom so that his/her better ear is closest to the sound source. Modifying the task might mean providing written rather than oral instruction.

The *Alter* strategy addresses the learner's context. This strategy generally involves finding the optimal context for the learner's performance. In the case of a learner who is easily distracted, this might mean providing a study carrel to decrease outside distractions.

The *Prevent* strategy involves anticipating problems and taking actions to prevent their occurrence. For example, if a learner experiences pain or fatigue when sitting for long periods, a preventive strategy would be to provide frequent opportunities to stand and/or change position.

The utility of the EHP model can be illustrated by the case of a learner with limited sitting tolerance, for whom sitting for long periods causes increased agitation and decreased attention to task (see Figure 3 on next page). The learner's specific disability is not the issue, rather, strategies to address the sitting intolerance, whatever its cause, is. Each of the strategies listed above can be applied. The teacher and the student, working together, then determine which strategy will work best.

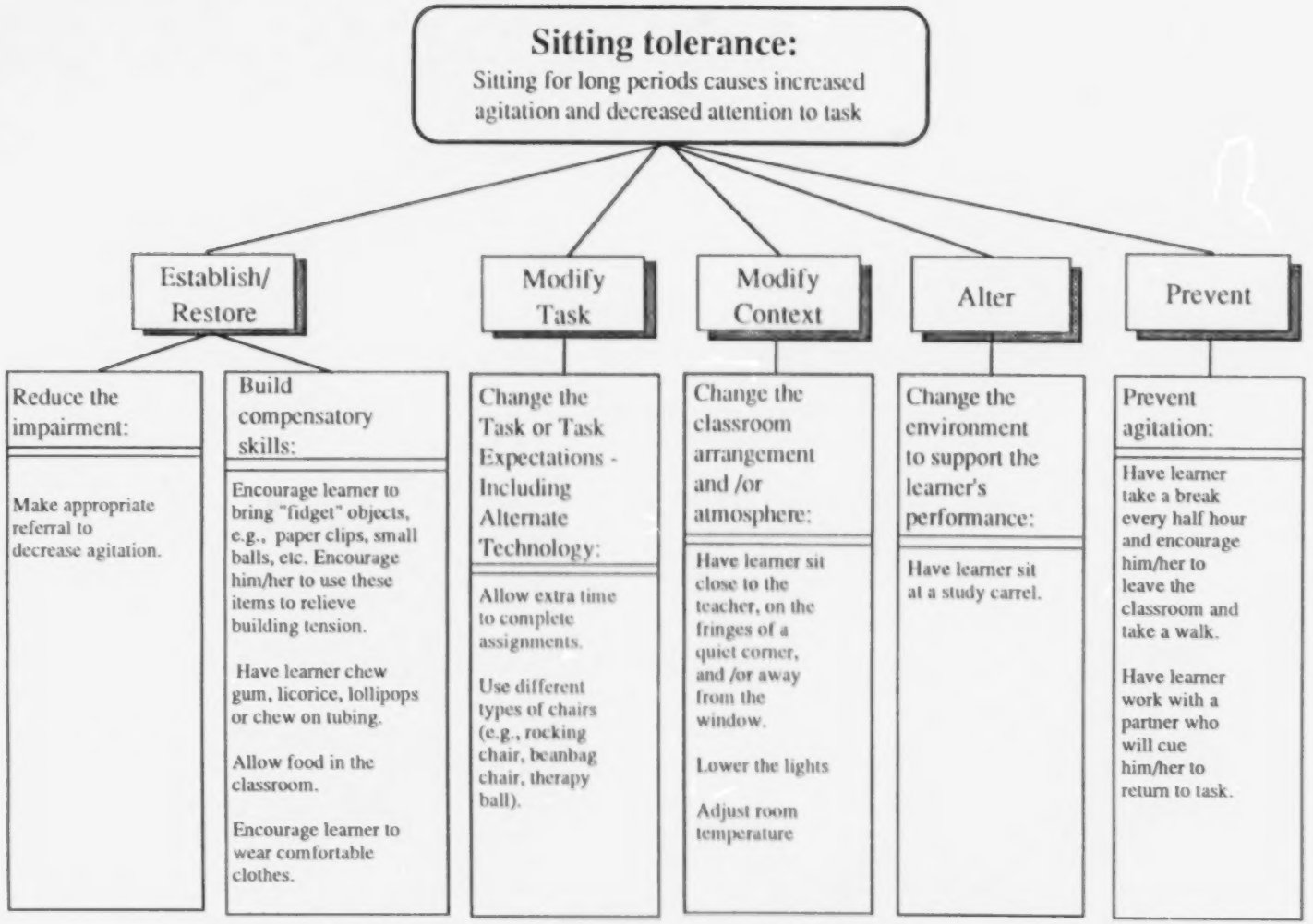
Sitting tolerance:
Sitting for long periods causes increased agitation and decreased attention to task
Establish/ Restore
Modify Task
Modify Context
Alter
Prevent
Reduce the impairment:
Make appropriate referral to decrease agitation.
Build compensatory skills:
Encourage learner to bring "fidget" objects, e.g., paper clips, small balls, etc. Encourage him/her to use these items to relieve building tension.
Have learner chew gum, licorice, lollipops or chew on tubing.
Allow food in the classroom.
Encourage learner to wear comfortable clothes.
Change the Task or Task Expectations - Including Alternate Technology:
Allow extra time to complete assignments.
Use different types of chairs (e.g., rocking chair, beanbag chair, therapy ball).
Change the classroom arrangement and /or atmosphere:
Have learner sit close to the teacher, on the fringes of a quiet corner, and /or away from the window.
Lower the lights
Adjust room temperature
Change the environment to support the learner's performance:
Have learner sit at a study carrel.
Prevent agitation:
Have learner take a break every half hour and encourage him/her to leave the classroom and take a walk.
Have learner work with a partner who will cue him/her to return to task.

**Figure 3: Sitting Tolerance**

Thus, the EHP framework can help educators make systematic decisions about identifying needs and designing strategies to meet those needs. The emphasis here is shifted from disability and type of accommodation to identifying goals and methods and supports to attain them. The EHP model differs from other organizational frameworks in that it considers *all* aspects of an individual's life experience and contexts, not just those in the educational environment. Further, the EHP model stresses strategies that assist an individual across his or her life span, from education, to employment, to all activities of daily living. In this respect, the EHP model is probably the most practical, comprehensive and beneficial model available to educators and learners.

### ACCOMMODATIONS UNDER THE TECH ACT (1988) (PL 100-407)

Often, occupational therapists are also asked to identify assistive technology to meet an identified functional need. As defined in the Technology Related Assistance for Individuals with Disabilities Act of 1988 (the "Tech Act"):

> an assistive technology device is any item, piece of equipment or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

An assistive technology device may be a "high-tech" item such as a computer or augmentative communication device, or it may be "low-tech" such as eyeglasses, a tape recorder, or a cushion for better positioning. It can also include training for students, teachers, and other service staff.

The ABLEDATA database, a National Institute on Disability and Rehabilitation Research-funded project, is generally considered to be the most comprehensive listing of assistive technology devices available. This database contains information on more than 22,000 products, from white canes and adaptive clothing to screen readers and voice output programs. The entire database, which is constantly updated, can be accessed on the Internet at http://www.ABLEDATA.com, or by telephone at 800-227-0216. Written requests for information may be mailed to ABLEDATA, 8455 Colesville Road, Suite 935, Silver Spring, MD 20910 or faxed to (301)-587-1967. ABLEDATA also produces a variety of "fact sheets" on numerous disability and technology related areas, which can be downloaded from their web-site or sent by mail.

The ABLEDATA database is organized by functional categories, such as personal care, educational management, seating, communication, recreation, transportation, mobility, etc. Each of these categories, in turn, has several subheadings, e.g., communication: a) mouthsticks, b) head-wands, c) reading, d) bookholders, e) writing, f) typing,

g) telephones, h) non-vocal and speech impaired, signal systems. There are more than 1200 products listed under the "Communication" category alone. Finding devices to accommodate a given functional need simply entails selecting the appropriate category and subheadings(s) until the desired products are located. Each product record provides a detailed description of the item, company contact information, and distributor listings.

## SUMMARY

A multitude of possible accommodations are available. However, we also have many ways to categorize and consider these accommodations, so that accommodation selection need not be a burdensome task. Organization schemes for accommodations may be based on a variety of categories and uses, including legal requirements, classroom settings, information processing constructs, and functional need. As technology continues to improve, so will the number of possible accommodations--and ways to access and evaluate them.

# Application of Accommodations

## Program Accessibility/ Facility Accommodations

Program accessibility encompasses the physical access to a program or facility by people with disabilities. Program and facility accessibility are a fundamental requirement under the ADA. Without program and facility accessibility, adult education centers will discriminate against many students before they even make it through the doors. Often, people associate the concept of program accessibility primarily with individuals with mobility impairments--this is a serious error. Less than one million people use wheelchairs in the U.S. Four times as many individuals have serious vision impairments and twenty-four times as many individuals have hearing impairments (U.S. Department of Education, Office for Civil Rights, 1995). Adult education centers must ensure that their programs and activities are accessible to qualified individuals with all types of disability. To meet this obligation, centers must consider such issues as providing accessible building signs, alarms with visible signals, and accessible telephones in addition to wheelchair access. An excellent method of testing the accessibility of a facility is to invite people with various disabilities to tour it. By accompanying a person with a disability throughout a building, we can all gain a better appreciation of just how many barriers exist, and how best to correct them.

In a broad sense, program accessibility can be considered a type of accommodation--one which makes the overall program available to learners with disabilities. For existing facilities, both Title II and 504 require that a program, when viewed in its entirety, is readily accessible to and usable by people with disabilities (28 CFR § 35.150 & 34 CFR § 104.22). By law, an adult education center must make its programs and activities accessible unless it can demonstrate that the required modifications would result in fundamental alteration of the program or in undue financial and administrative burdens. Both laws require that new or altered facilities (those built or altered after January 26, 1992) be readily accessible. No fundamental alteration or undue burden limitations exist for providing accessibility in new or altered facilities, so a new or newly altered facility that is inaccessible is in violation of the law. When an adult education program leases space, the program is responsible for providing accessibility to all classes it offers in the leased space.

Title II and 504 both offer some flexibility in how accessibility requirements can be met in existing facilities by allowing either structural or nonstructural methods of compliance. Although nonstructural methods of achieving program accessibility in existing facilities are allowed, nonstructural solutions should not have the effect of segregating people with disabilities or compromising their dignity and independence. Some acceptable methods of achieving program accessibility are:

- Reassignment of services to an accessible location (e.g., to a ground floor or to another building)
- Purchase, redesign or relocation of equipment (e.g., providing work stations, modifying doorknobs, or moving computers to an accessible room)
- Assignment of aides (e.g., to retrieve a book from an inaccessible shelf or an inaccessible library).
- Structural changes (installing a ramp, widening a door, etc.)

### Auxiliary Aids and Services/ Communication Accommodations

All education professionals recognize the importance of effective communication. For many people with disabilities, especially those with sensory disabilities, communication is one of the biggest barriers that they face in their daily living. In order to provide equal access to their services and avoid discrimination against people with disabilities, adult education programs are required under Title II to make auxiliary aids and services available when necessary to ensure effective communication with both students and the general public (28 CFR §35.160). Auxiliary aids and services include a wide range of services, equipment, and devices that provide effective alternate communication to people with visual, hearing, speech or cognitive disabilities, including providing communications in alternate formats such as Braille, large print, with TDD's, or through sign language interpreters. All communications of a program, not just those in the classroom, must be provided in a manner that is effective for people with disabilities, including correspondence, telephone conversations, enrollment or application materials, etc. Alternate formats must be provided upon the request of an individual with a disability.

Visual Communication

Information that is communicated visually, such as printed materials or visual displays, must be made accessible to people with visual and cognitive disabilities through auxiliary aids and services. Examples of visual communication include:

- brochures
- handbooks
- workbooks
- slide shows
- letters
- videotapes
- posters

Auxiliary aids and services for students who have difficulty accessing visual communication include: large print, Braille, audio tape, readers, information on computer diskette, verbal descriptions, computer

adaptations (e.g., enlarged text, voice synthesizer, scanner), and pictorial signage.

Aural/Oral Communication

"Aural" information is any information that is heard, while "oral" information refers to spoken information. Programs that communicate information aurally to applicants or participants or that require a participant or applicant to use oral communication must make that information accessible to people who have hearing or speech disabilities by providing auxiliary aids and services. Examples include:

- classroom lectures
- speakers
- video tapes
- television programs
- telephone conversations

Auxiliary aids and services for students who have difficulty accessing aural and/or aural communication include: sign language interpreters, note takers, written materials, TDD (Telecommunications Device for the Deaf), telephone amplification, paper and pen, caption decoder, real time captioning, assistive listening devices, and word processors.

## Modifications to Policies, Practices and Procedures

A program must make reasonable modifications to its policies, practices and procedures when such modifications are necessary to ensure that a qualified individual with a disability is not discriminated against on the basis of disability (28 CFR §35.130(b)(7)). In practical terms, this means that programs need to make accommodations for students with disabilities to allow them equal opportunity to participate in and benefit from a program. Examples of accommodations under this part of the law include a variety of testing accommodations, the use of calculators or other assistive devices, the provision of a private work area, and modification of existing equipment.

A multitude of testing accommodations are possible, depending on the needs of the student, and what skills are being tested. Some testing accommodations can also be generalized across settings to be used as classroom accommodations. Examples include: the use of audiocassettes, Braille or large print; the provision of extra time, a private area, frequent breaks, interpreters, readers or scribes; the use of assistive technology such as calculators, spell checkers, or computers.

## ACCOMMODATIONS ON THE GED

Because many learners participating in adult education programs will eventually want to take the GED, instructors need to know the types of accommodations allowed. The GED Testing Service realizes that not all individuals can be tested fairly under standard administrations of the regular edition of the GED test. For this reason, the Service has made special editions of the test available in audiocassette, Braille and large print formats. Under certain conditions, they will also provide the following accommodations (GED Testing Service, 1993):

- **Extra time**: Double time is granted for individuals with visual impairments using the audiocassette and Braille editions of the test. Time and one-half is commonly granted to candidates with specific learning disabilities and to candidates who are hearing impaired. Candidates with physical or psychological impairments will receive extra time as is warranted by a professional assessment.
- **Private room**: Testing in a private room is available to those who, because of an illness or a disability, need to be away from others. It is also available to those whose specific learning disabilities or psychological condition make testing in a group distracting to them or to the other candidates.
- **Breaks:** Some examinees, because of physical discomfort or because of their inability to concentrate for extended periods of time, require frequent breaks during the test.
- **Interpreter:** A certified interpreter may be used to interpret test instructions and essay topic only--not the multiple-choice questions--to examinees with hearing impairments.
- **Scribe:** A scribe is someone who records the answers to multiple-choice questions to the essay as dictated by the examinee.
- **Calculator:** Adults who are legally blind are entitled to use a talking calculator or abacus on the Mathematics Test. Adults with physical and learning disabilities may be granted the use of a calculator only by written permission of the GED Testing Service.

The type of accommodation is determined on an individual basis, but a written request for accommodation must be filed and the need must be fully documented by a qualified professional (the Testing Service has guidelines for what constitutes a "qualified" professional). It may take several weeks to get approval for an accommodation, so requests should be made well in advance of the date of the test. More information on these policies is available through the GED Testing Service at One Dupont Circle, Washington, D.C., 20036, (202) 939-9490.

## Accommodation Selection

Two assumptions can be made in the process of selecting an accommodation for a particular student. The first assumption is that a number of different accommodation possibilities exist to meet the identified need. The second assumption is that both the student and the instructor have criteria that are important to them in the eventual determination of the "best" accommodation. Some of these criteria might include:

- Acceptance by others in the environment
- Amount of student training required
- Appropriateness for different tasks
- Approved by GEDTS
- Availability of accommodation
- Cost of accommodation
- Documented in student records
- Ease of use
- Effectiveness
- Expected power/benefit
- Gain in independence
- Instructor knowledge
- Long-term benefit
- Need for additional support by another
- Previous use by the adult learner
- Referral from SRS, etc.
- Social benefits to student
- Student functional need
- Use across environments; Portability
- Use for multiple students

The most important concept for an educator to remember in this process is that accommodations must be selected in a way that matches an individual's needs--not the perceived needs of a particular disability. For example, persons with multiple sclerosis (M.S.) have very different needs depending on the symptoms of the illness that they are experiencing at any given time. Some people with M.S. experience cognitive difficulties, and may need accommodations to assist them with short-term memory problems. Others may experience visual disturbances, and require accommodations such as large print or audio taped assignments. Still others may experience neuro-muscular symptoms and need accommodations with manual tasks such as writing or using a keyboard. Only by working directly with the individual can an appropriate accommodation be determined. This need for individualization was emphasized by learners with disabilities from a state-wide sample when they were asked about their experiences with accommodations or adult education programs in general: ". . . use what works for *me*, not for someone else." Moreover, most of the learners interviewed, when asked, were able to identify at least one strategy or

compensatory skill that was effective for them-- again accentuating the importance of communication and cooperation in selecting accommodations.

## TRAINING

A concern voiced by many adult educators (Mellard, 1997) is the lack of training available on accommodations. Actually, many accommodations are simply slight modifications of established teaching practices, such as placing a learner with a hearing impairment closer to the front of the room, or providing lined paper for a learner who has difficulty with handwriting. Consequently, most accommodations don't require any special training.

One case where training might be necessary is in the provision of assistive technology. Training in this case might involve learning about what options are available and how to utilize the selected device. Fortunately, every state has an Assistive Technology Center funded through the Federal Technology-Related Assistance for Individuals with Disabilities Act (the "Tech Act" -- see Section 4). These centers provide information and referral on selecting appropriate devices and also free training to both students and professionals on how to use the devices. To locate the nearest Tech Act center, call the RESNA Technical Assistance Project, 1700 North Moore Street, Suite 1540, Arlington, VA, 22209-1903, at (703) 524-6686. RESNA also maintains a web site at http://www.resna.org/ that lists all the state projects as well as funding and other information.

## MONITORING

Once an accommodation has been selected, and training has been provided on its usage, monitoring of the accommodation may be necessary. Monitoring should focus on the learner's proficiency at using the accommodation, and whether the desired outcomes of its use are being met. Monitoring may be as simple as asking the learner questions such as: Are you getting any benefit from using the accommodation? Are you having problems with it? Do we need to make any changes? These questions should be repeated from time to time in case the learner experiences problems early that are resolved, or in case he or she ceases to get any benefit from the accommodation when it is used in a different context or in working on a different task. A written record of problems and successes of accommodations may be a useful reference as the student progresses in the program, and for possible use outside of the program, such as in an employment setting. The documentation may be particularly helpful when the learner seeks accommodations and needs to document the disability in other settings, e.g., GED Test Service and postsecondary education.

## Generalization Across Settings

As mentioned above, once a successful accommodation has been identified and utilized, the accommodation may be transferable to other settings.

If, for example, a learner with limited manual dexterity has successfully utilized software in his or her adult education program that allows sequential, rather than simultaneous, keystrokes, it is quite likely that the learner would be able to utilize the same software in an employment setting. In this case, no modification of the accommodation would be necessary for its successful utilization in another setting. In other instances, some modification might be required to generalize an accommodation across settings. For example, consider a learner with low vision who has successfully utilized large print text books. Much of the written material on the job will not be readily available in large print, but the employer could use an enlarging copying machine to provide large print text. Additionally, if the same learner wanted to read standard print at home, where an enlarging copier was not available, he or she could be taught to use a magnifying glass to access small print.

# Outcomes of Accommodations

## Effects in the Classroom

The published literature on the effects of accommodations is very sparse. When we asked about the impact of an accommodation on an adult learner, adult educators from a state-wide sample provided the following responses (Mellard, 1997). Adult learners --

- became more trusting
- improved their self-confidence
- improved their self-esteem
- became more productive
- became friendlier to staff
- increased their interaction with staff and other students
- became more outgoing
- became more comfortable
- improved their attendance

The provision of accommodations can have very positive effects both on the adult learner with a disability, and on his or her interactions with others. In other discussions with adult educators, Mellard found concerns about the low retention rate of learners with disabilities. The consensus from educators is that many of these learners have already experienced failure, and are reluctant to set themselves up for more of the same. Adult educators also noted that working with learners with disabilities tended to take more time and effort on the educator's part. Because adult education programs have traditionally experienced low retention rates and few contact hours (Moore & Stavrianos, 1995), educators should consider the potential payoff in retention rates that the time involved in accommodation provision can provide. If adult education spending is viewed as an investment in the human capital of students, returns on the investment come in the form of increased employment and earnings and reduced public assistance (Moore & Stavrianos, 1995).

Learners with disabilities in adult education programs responding to telephone interviews confirmed the observations of educators. One respondent said that she had been afraid and embarrassed to ask questions because of previous bad experiences in educational settings. Conversely, several learners reported that their confidence was increased as a result of accommodations and concomitant successes in adult education. Indeed, most of the learners interviewed demonstrated a high level of motivation in achieving a variety of educational goals.

## Effects Outside of the Classroom

The success of an accommodation in the adult education classroom can most readily be measured by its effect on the learner's performance and on its ability to empower the learner to achieve his or her goals in

the program. Thus, if the learner wants only to be able to read, and the use of a magnifier makes this goal possible, then the use of a magnifier as an accommodation can be seen as successful.

A broader measure of success might also be considered, however, and that is the successfulness of an accommodation in empowering the learner to live more independently in all phases of his or her life. Adelman and Vogel (1990) found that compensatory strategies and auxiliary aids learned by many adults with disabilities in an educational setting were later applied in work settings. This implies that the learners involved had a good understanding of how and why a particular accommodation worked for them. Brinckerhoff et al. (1992) provide a list of ways in which instructors can foster independence in learners with disabilities, including encouraging the learner to assess needs, identify problems, and develop compensatory strategies. This reinforces the idea of working cooperatively with learners to identify needs and possible accommodations rather than just prescribing a device or strategy that seems appropriate. Such skills can be transferred across settings and tasks and used throughout a lifetime.

# FRAMING ISSUES FOR FUTURE WORK

In this report, we have reviewed the nature, extent and outcomes of accommodations in adult education. We have incorporated literature searches, data from statewide interviews of adult educators and adult learners with disabilities and also national surveys of adult education programs, information from meetings with consumer and expert panels, and our own experiences. From these many sources of information, we have attempted to discern what issues need to be addressed further as work on our project proceeds.

## DEFINITIONS

We first reviewed the rationale for accommodations and saw how the civil rights struggle for people with disabilities was similar to the same struggles of other minority populations and also how it differed. In particular, we noted that, in contrast to other minority populations, equal opportunity for people with disabilities actually demands *different* rather than identical treatment. But how, exactly, do we define this different treatment and address equity issues?

In formulating a definition of accommodations for our project, we considered the definition of accommodations by many other practitioners. As we have seen, the definition of accommodation varies with the application. How then can educators know what is meant when they are encouraged to provide accommodations to their students with disabilities? On the one hand, the definition is not so important as the attitude. If an educator is willing to work with a student to identify needs and then find ways, through changes in equipment, environment, procedures, or tasks, then the label that is applied to those changes becomes irrelevant.

On the other hand, adult educators must be familiar with the legal and theoretical implications of the definitions presented. Educators must be aware of legal terminology in order to comply with the various federal regulations that apply to adult education. Conversely, if they are to take advantage of the concepts within the Ecology of Human Performance model (Dunn, et al., 1996), they must also be cognizant of the ideas and methods contained in that model.

Although we have provided a working definition of accommodations for our research purposes, educators must ultimately, in their own minds, develop a unique set of ideas for identifying and providing appropriate accommodations in their own programs. We hope to facilitate this process through the development by this project of a compendium of materials and resources on different types of accommodations.

## Legal Gray Areas

We have explained various disability laws that apply to education. Legal guidelines regarding the provision of accommodations have been left vague by lawmakers so that tests of the law in the court system can provide case-specific interpretation of the mandates. At this writing, no case law directly involves an adult education program. Nevertheless, ample case law exists from other educational settings upon which guidelines for adult education can be based. For example, although no specific languages in the law, the prevailing legal opinion is that if an adult educator has reason to believe that an adult learner has a disability, then the educator must make a good faith effort to notify the learner of his legal rights and of the availability of accommodations. Based on the current literature and commonly expressed attitudes, this legal opinion is markedly different from current policies and practices.

On a more practical level, even specific guidelines seem insufficient to address the day-to-day practices that an educator might use to facilitate and implement the accommodations process. Perhaps the best way that an educator can effectively work with learners with disabilities is to be proactive. That is, determine beforehand what the essential requirements of a course are, and what accommodations would or would not be acceptable. Also, the development of policies and procedures for providing accommodations can be invaluable for providing timely and effective responses to requests for accommodation. We hope to facilitate the process of policy development through the creation of a handbook for adult educators that not only provides information on legal rights and responsibilities, but also practical ways to comply with the law. Additionally, we hope to develop a handbook for adult learners that educators can distribute to learners with disabilities and use in explaining learners' legal rights and responsibilities to them. Tentative titles for these documents are *Adult Educator Handbook of Rights and Responsibilities* and *A Handbook of Rights and Responsibilities of an Adult Learner with a Disability.*

## Nature and Application of Accommodations

We have reviewed various types and taxonomies of accommodations in order to provide a better understanding of the diversity involved and a means to organize it. Throughout this report, we have stressed the critical importance of providing accommodations on the basis of *individual need* rather than on the basis of a preconceived set of ideas about a particular disability. Once educators accept this caveat, however, they may be at a loss as to the specifics of identifying and accommodating particular functional needs. Also, once an accommodation has been selected, training in its use and monitoring of its effectiveness must be planned. Most adult educators to whom we have spoken have stressed a lack of time as their biggest barrier to providing accommodations. However, if an accommodation empowers a student to work more

independently, then its provision will ultimately free the educator to spend more time with other learners. Thus, educators need a document to guide their practice and use their time more effectively in 1) confirming a disability, 2) identifying functional needs, 3) selecting an accommodation, 4) training its usage and 5) monitoring its effectiveness. A working title for this document is the *Adult Educator's Procedural Guide*. Additionally, a comprehensive document containing information on types of accommodations and how to provide them will be developed. This document will be entitled the *Compendium of Materials and Resources*.

## Extent and Outcomes of Accommodations

Are learners with disabilities receiving appropriate accommodations? Not likely. We have shown how the provision of accommodations to adult learners can impact not only their educational experience and potential success, but also their employment prospects and even personal daily living. The outcomes of accommodations can be far-reaching and enormously important to the overall success and independence of learners with disabilities. Thus, increased effort must be made in ensuring that learners' needs are assessed in a manner that improves their accommodations. Increased resources and skills are important ingredients to improving the accommodations of learners.

The majority of adult educators interviewed in a statewide survey (Mellard, 1997) expressed a willingness to provide accommodations to adult learners with disabilities. A national survey of adult education programs (Hall, 1997; White, 1996) indicated that many programs are already providing accommodations such as extra time, large print, more structured assignments, etc. However, responses to both the interviews and survey cited a lack of resources, including informational resources on accommodations and legal issues, and time limits of staff, as barriers to providing effective accommodations to their students. Hopefully, this report, as well as other products to be developed by this project, will address these barriers and help to remove them, so that adult learners with disabilities will receive the accommodations they need in order to have an equal opportunity at success in education and beyond.

## REFERENCES


Adelman, P.B., & Vogel, S.A. (1990). College graduates with learning disabilities: Employment attainment and career patterns. Learning Disability Quarterly, 13, 154-166.

Americans with Disabilities Act: Questions and Answers.(Rev. September, 1992). U.S. Equal Employment Opportunity Commission and U.S. Department of Justice, Civil Rights Division.

*Big Bend Community College (WA)*, (Complaint No. 10-90-2035) (OCR Region X 1991).

Blackorby, J., & Wagner, M. (1996). Longitudinal post school outcomes of youth with disabilities: Findings from the National Longitudinal Transition Study. Exceptional Children, 62(5), 399-413.

Brinckerhoff, L. C., Shaw, S. F., McGuire, J M., (1992). Promoting access, accommodations, and independence for college students with learning disabilities. Journal of Learning Disabilities, 25(7). pp. 417-429.

*Dinsmore v. University of California, Berkeley*, (N.D. Cal., September 23, 1990)

Dunn, W., Brown, C., & McGuigan, A. (1994). The ecology of human performance: a framework for considering the effect of context. The American Journal of Occupational Therapy 48(7): 595-607

Dunn, W., Brown, C., McClain, L.H., & Westman, K. (1994). The ecology of human performance: A contextual perspective on human occupation (AOTA Self-Study Series: The practice of the future: putting occupation back into therapy). American Occupational Therapy Association, Inc.

Dunn, W., Gilbert, M.P., & Parker, K. (Sept., 1996). The ecology of human performance framework: A model for identifying and designing appropriate accommodations for adult learners. Paper presented at the annual conference of the National Association for Adults with Special Learning Needs, New Orleans, LA.

Edgar, E. (1987). Secondary programs in special education: Are many of them justifiable? Exceptional Children, 53, 555-561.

GED Testing Service. (1993). GED Examiner's Manual for the Tests of General Educational Development. Washington, D.C.

Hall, J. (1997). Results of national survey and state interviews. In D. Mellard, (Ed.), Proceedings of the symposium on accommodating adults with disabilities in Adult Education. Lawrence: University of Kansas. pp. 14-21.

Harris, P. (1995). Who am I? Concepts of disability and their implications for people with learning difficulties. *Disability & Society, 10* (3), 341-351.

Hasazi, S.B., Gordon, L.R., & Roe, C.A. (1985). Factors associated with the employment status of handicapped youth exiting from high school from 1979 to 1983. Exceptional Children, 51 , 455-469.

HEATH Resource Center. (1985). Measuring student progress in the classroom: A guide to testing and evaluating progress of students with disabilities. Washington, D.C.: Author.

HEATH Resource Center. (n.d.) Students who are deaf or hard of hearing in postsecondary education. Washington, D.C.: Author.

Hoffmann, F.J., Sheldon, K.L., Minskoff, E.H., Sautter, S.W., Steidle, E.F., Baker, D.P., Bailey, M.B., & Echols, L.D. (1987). Needs of learning disabled adults. Journal of Learning Disabilities, 20 (1), 43-52.

Isett, E. (1996). *What's Happening*, IV(4), 1. Seattle, WA.

Johns, C. (1989). A disability rights perspective: Critical issues for non disabled persons in disability-related professions. California Association of Postsecondary Educators of the Disabled Journal, 5(1), 9-15.

Kincaid, J.M. (1995). Legal considerations for serving students with learning disabilities in higher education. Rev. 1995. Available from: Association on Higher Education and Disability (AHEAD), Columbus Ohio. Orders may be placed by calling 614-488-4972.

Longmore, P.K. (1995). Medical decision making and people with disabilities: A clash of cultures. Journal of Law, Medicine & Ethics, 23, 82-87.

Lowe, J.H. (1996). From the director: Serving adults with specific learning disabilities GED Items 10(3). American Council on Education.

Mather, N. & Roberts, R. (1995) Informal assessment and instruction in written language: A practitioner's guide for students with learning disabilities. Brandon, VT: Clinical Psychology Publishing Co. Inc.

*McGregor v. Louisiana State University Board of Supervisors*, 3 F.3d 850 (5th Cir. 1993), 4 NDLR ¶ 186.

Means, C.D. (1994). Accommodations for attention deficit disorder. Rebus Report, 5-6.

Mellard, D. (1997). Report on statewide interviews of adult learners with disabilities and adult educators. Manuscript in preparation.

Mithaug, D., Horiuchi, C. & Fanning, P. (1985). A report on the Colorado statewide follow-up survey of special education students. Exceptional Children, 51, 397-404.

Moore, M.T. & Stavrianos, M. (1995). Review of adult education programs and their effectiveness: A background paper for reauthorization of the Adult Education Act. U.S. Department of Education.

Payne & Associates. (1993). Accommodations and adaptive strategies. Olympia, WA.

Pfeiffer, D. (1994). Symposium on disability policy: Introduction: Issues of politics and practice in disability policy. Policy Studies Journal, 22 (1), 110-111.

Phillips, S. E. (1994) High-stakes testing accommodations: validity versus disabled rights. Applied Measurement in Education, 7(2), 93-119.

Rawls, J. (1971). A Theory of Justice. Belknap Press, Cambridge Mass. 607 pp.

RESNA Technical Assistance Project. (1992, August). Assistive technology and the individualized education program. Washington, D.C.

Rodriguez, F. (1994). Affirming Equity: A Framework for Teachers and Schools. Kendall/Hunt Publishing Co., Dubuque, Iowa, 389 pp.

Scott, S.S. (1990). Coming to terms with the "otherwise qualified" student with a learning disability. Journal of Learning Disabilities, 23(3), 398-405.

Scott, S.S. (1994). Determining reasonable academic adjustments for college students with learning disabilities. Journal of Learning Disabilities, 27, 403-412.

Simons, K. (1992). 'Sticking up for yourself': self-advocacy and people with learning difficulties. (York, England. Joseph Rowntree Foundation).

*Southeastern Community College v. Davis*. 442 U.S. 397, 99 S.Ct. 2361 (1979).

University of Minnesota, Disability Services. (1996). Access for students with disabilities: Policies, procedures, and resources. Minneapolis, MN. Author.

*University of North Carolina at Chapel Hill*, (Complaint No. 04-91-2144) (OCR Region IV 1992).

White, W. (1996, September). Results and implications of national accommodations surveys and interviews. Paper presented at the annual conference of the National Association for Adults with Special Learning Needs, New Orleans, LA.

U.S. Department of Education, Office for Civil Rights. (1995). Compliance with the Americans with Disabilities Act: a self-evaluation guide for public elementary and secondary schools.

Ysseldyke, J., Thurlow, M., & Silverstein, B. (1994). Making accommodations in assessment of students with disabilities. National Association of School Psychologists Communiqué, 22 (6), Insert.

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